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5 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
6 **OF THE STATE OF WASHINGTON**

7 IN RE THE MATTER OF ENFORCEMENT
8 ACTION AGAINST

9 Tacoma School District,

10 Respondent.

PDC CASE NO. 01-199

ORDER DENYING PETITION
FOR INTERVENTION AND
GRANTING AMICUS CURIAE
STATUS

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12 **PROCEDURAL BACKGROUND**

13 This matter is an enforcement action before the Washington State Public Disclosure
14 Commission (Commission) under chapter 42.17 RCW, Title 390 WAC, and the Administrative
15 Procedure Act at chapter 34.05 RCW. The action involves alleged violations of RCW 42.17.680
16 by the Respondent Tacoma School District, as detailed in an August 30, 2001 Notice of
17 Administrative Charges filed by PDC Staff. The hearing on the alleged violations was scheduled
18 for September 27, 2001, but has been continued to October 23, 2001.

19 On September 21, 2001, the Washington Education Association-Political Action
20 Committee (WEA-PAC) filed a Petition for Intervention under RCW 34.05.443 in this matter.
21 The Commission reviewed the Petition at its September 27, 2001 meeting. The Commission
22 considered: (1) the Petition and the oral argument of WEA-PAC's counsel, Michael J. Gawley,
23 supporting the Petition, (2) the oral argument of Assistant Attorney General Neil Gorrell,
24 representing PDC Staff, who opposed intervention but did not oppose amicus status being
25 granted to WEA-PAC, and, (3) the September 25, 2001 letter from Susan K. Schreurs, General
26 Counsel, Tacoma School District, wherein the Respondent explained that it was unable to attend

1 to present oral argument and waived oral argument, but that the Respondent did not object to
2 intervention.

3 SUMMARY OF ARGUMENT

4 WEA-PAC is a voluntary association and political committee. In this case, WEA-PAC
5 argues that it qualifies as an intervenor under RCW 34.05.443; that intervention is in the interests
6 of justice and does not impair the orderly and prompt conduct of the proceedings; and, that
7 WEA-PAC should be allowed to intervene to represent its members' interests.

8 PDC staff argue that the APA directs that Commission approval of intervention is a
9 discretionary act; that if the Petition is granted, the Commission has the ability to limit the
10 intervenor's participation; that the parties present in the case can adequately address the issues
11 before the Commission; that there are alternatives (such as amicus participation or a declaratory
12 judgment action) that could also enable the WEA-PAC to present its arguments without
13 disrupting the orderly conduct of the proceedings; and, that granting intervention under the
14 circumstances present here may open the door to possible future intervenors in other pending
15 enforcement cases that are at this same stage.

16 The Respondent in its September 25, 2001 letter explained that it did not object to
17 intervention, and that it wants resolution of the conflicting issues of privacy and confidentiality
18 with the records at issue.

19 Following deliberation, the Commission voted unanimously 5-0 as follows:

20 FINDINGS AND CONCLUSIONS

21 The Commission finds that RCW 34.05.443 grants the Commission the discretionary
22 authority to grant or deny a Petition for Intervention.

23 The Commission finds that the Petitioner has not offered a sufficient legal basis requiring
24 intervention in this case, under chapter 34.05 RCW, chapter 42.17 RCW, the Commission's rules
25 in Title 390 WAC, the Model Rules at chapter 10-08 WAC, or the authorities cited by the
26 Petitioner.

1 The Commission finds that granting the petition to add a party at this late stage in the
2 proceedings of the series of these cases involving school district respondents and alleged
3 violations of RCW 42.17.680 disrupts the orderly administration of these cases.¹

4 ORDER

5 For the foregoing reasons,

- 6 1. The Petition for Intervention by WEA-PAC is DENIED.
7 2. The WEA-PAC shall be GRANTED amicus curiae status.
8 3. The WEA-PAC's amicus brief shall be filed with the Commission and served on the parties
9 by October 8, 2001 (filing and service means the date on which the brief is received). The
10 parties may file and serve any responsive briefs by October 15, 2001.
11 4. To expedite receipt of this Order, the chair is authorized to sign on behalf of the
12 Commission, and the Order shall be served by fax.

13 So ORDERED this 2 day of October, 2001.

14 WASHINGTON STATE PUBLIC
15 DISCLOSURE COMMISSION

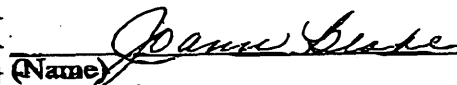
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17 CHRISTINE YOROZU, Chair

18 ORDER FAXED TO:

19 NEIL GORRELL, ASSISTANT ATTORNEY GENERAL at FAX # (360) 664-0229;
20 MICHAEL J. GAWLEY, ATTORNEY AT LAW at FAX # (800) 861-8926, and
21 SUSAN K. SCHREURS, GENERAL COUNSEL at FAX # (253) 571-2550

22 this 2nd day of October, 2001 by:

23 
(Name)

24 
(Job Title, Agency)

25 ¹ In approximately the past year, the Commission has heard cases involving alleged violations of RCW
26 42.17.680 by the following school districts: Castlerock, Everett, Vancouver, Clover Park, Bethel, Seattle and Kent.